

Amendments to Claims

Claims 1-38 (Canceled)

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10/16/03

**Claim 39. (Currently Amended)** A method for conditionally activating a transgene in a plant comprising:

- 1) providing constructs comprising:
  - a) a first recombinase element having the general structure P1-R1;
  - b) a second recombinase element the having general structure P2-RS1-STP-RS1-R2;
  - c) a third recombinase element having the general structure P3-RS2-STP-RS2-TG1; and
  - d) a fourth recombinase element having the general structure P4-RS2-STP-RS2-TG2;

wherein:

- (i) P1 is a first promoter;
- (ii) R1 is a first recombinase coding sequence and 3' region;
- (iii) RS1 is a first recombinase site responsive to a first recombinase;
- (iv) P2 is a second promoter;
- (v) RS2 is a second recombinase site responsive to a second recombinase;
- (vi) STP is a stop fragment;
- (vii) R2 is a second recombinase coding sequence and 3' region;
- (viii) TG1 is a first transgene sequence and 3' region;
- (ix) TG2 is a second transgene sequence and 3' region;
- (ix) P3 is a third promoter; and
- (x) P4 is a fourth promoter;

wherein P1, P2, P3 and P4 are operably linked to their down stream elements and wherein TG1 and TG2 are different trait transgenes and wherein P3 and P4 are activated in a second generation plant;

- 2) providing a first and second plant selected from the group consisting of:
  - a) a first plant comprising the first and third recombinase elements and a second plant comprising the second and fourth recombinase elements;
  - b) a first plant comprising the first and fourth recombinase elements and a second plant comprising the second and third recombinase elements;
- 3) crossing the first and second plants to produce a first generation plant wherein conditional expression of the first recombinase coding